

## APPENDIX C

## APPENDIX C1

### **Survey Types and Process**

The State Survey Agency (SA) is required to conduct annual unannounced surveys at LTC Facilities to determine compliance with Federal regulations. At 42 of the Code of Federal Regulations (CFR) 488.301 defines the type of surveys that SAs conduct, such as Standard/Abbreviated Standard Surveys and Extended /Partial Extended Surveys. These survey types are as follows:

- 1) The survey conducted by the SA annually begins as a resident-centered, outcome-oriented Standard Survey. This survey gathers information about the quality of services furnished and whether the facility complies with participation requirements to meet the needs of each resident.
- 2) An Abbreviated Standard Survey, which may be conducted as a result of complaints received, or as a result of change in ownership, management or director of nursing, focuses on a particular area of concern and may focus on staffing.

If during the course of either of these two types of surveys, the surveyors identify substandard quality of care, the survey agency must conduct an Extended or Partial Extended Survey.

- 3) During an Extended/Partial Extended Survey, in addition to other requirements, nursing staffing must be reviewed.

The statute and regulations require that a survey be conducted by a multidisciplinary group of health professionals such as dietitians, pharmacists, and nurses. The survey team must include at least one registered professional nurse. Depending upon the survey findings, complexity of the facility services and structure, distance and travel time, a survey with three to four surveyors for a 100 bed facility, on the average, takes approximately four days to complete.

The Standard Survey process is predicated upon a holistic review of the care and services required by an individual residing in the LTC facility. As an outcome based survey process, the surveyors evaluate the care and services provided (e.g., assistance with activities of daily living (ADLs), and appropriate interventions to prevent the development of: pressure ulcers, dehydration, malnutrition, decline or failure to maintain or improve ADLs, etc.). Surveyors must identify the potential for and actual negative outcomes and the facility's culpability. If the surveyor identified an actual/potential negative outcome, emphasis was placed on identifying the specific requirement in the areas of quality of care or quality of life where the facility was deficient.<sup>1</sup>

The Standard Survey process includes the use of the following information gathering techniques to

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<sup>1</sup> Prior to the implementation of an Investigative Protocol, surveyors were not given a direction in relation to identifying how or why a residents' written care plan was not being provided (e.g., such as investigating to determine if there was sufficient staff to develop an appropriate plan of care and implement the plan of care as written).

complete the required survey tasks: observation of delivery of care; resident/family and staff interviews; and record review which provides evidence of whether staff evaluated resident's needs and/or recognized, evaluated and intervened when a resident experienced a change in condition.

The required tasks for a Standard Survey prior to SOM changes in July 1999 included the following:

- C Offsite preparation for the survey (including review of a variety of reports and documents);
- C An entrance conference with the facility staff and a posting of the availability to meet with staff, visitors and residents;
- C A tour of the facility (primarily to identify concerns, confirm or invalidate previously identified concerns and to obtain an initial review of the facility, residents, staff, and environment);
- C Selection of a case-mix stratified sample of residents to use in subsequent focused or comprehensive reviews of the care, quality of life and services for those residents;
- C Resident, resident council, family, and staff interviews;
- C Medication pass observation;
- C An assessment of environmental safety and accommodation of resident specific need;
- C Observation of meal service, evaluation of the dining experience and determination of whether the nutritional needs of residents are being met; and
- C A review for the presence of the facility's quality assurance program;
- C A review of the Medicare requirement for Demand Billing; and
- C A review of Life Safety Code (which is done annually, but may be completed by specialty inspectors, e.g., Fire Marshall, Engineer, etc. and not necessarily concurrent with the standard health survey).

A survey process provides a limited amount of time to complete the tasks required to evaluate a facility for compliance with the regulations. The survey process is complex and includes clarification of issues with facility staff, residents and/or their families or representatives in a limited amount of time to complete all tasks. Prior to the end of the survey, the team must review and evaluate their findings to determine the facility's compliance or non-compliance with the requirements for long term care facilities.

APPENDIX C2  
**Legislative Requirements in the Social Security Act**

**§ 1819 REQUIREMENTS FOR, AND ASSURING QUALITY OF CARE IN, SKILLED NURSING FACILITIES.**

**(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.--**

**(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE--**

A skilled nursing facility must provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care which --

(A) describes the medical, nursing and psychosocial needs of the resident and how such needs will be met;

(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

**(4) PROVISION OF SERVICES AND ACTIVITIES--**

(A) IN GENERAL: To the extent needed to fulfill all plans of care described in paragraph (2), a skilled nursing facility must provide, directly or under arrangements (or, with respect to dental services, under agreements) with others for the provision of

(i) nursing services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

**(B) QUALIFIED PERSONS PROVIDING SERVICES--**

Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

**(C) REQUIRED NURSING CARE. --**

(I) IN GENERAL. -- Except as provided in clause (ii), a skilled nursing facility must provide 24-hour licensed nursing service which is sufficient to meet nursing needs of its residents and must use the services of a registered professional nurse at least 8 consecutive hours a day, 7 days a week.

**(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.---**

**(1) ADMINISTRATION.--**

(A) IN GENERAL.--A skilled nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

## **§ 1919 REQUIREMENTS FOR NURSING FACILITIES.**

### **(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.--**

#### **(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE--**

A nursing facility must provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care which --

(A) describes the medical, nursing and psychosocial needs of the resident and how such needs will be met;

(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

#### **(4) PROVISION OF SERVICES AND ACTIVITIES--**

(A) IN GENERAL: To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)--

(i) nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

#### **(B) QUALIFIED PERSONS PROVIDING SERVICES--**

Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

#### **(C) REQUIRED NURSING CARE; FACILITY WAIVERS. --**

(i) GENERAL REQUIREMENTS.-- With respect to nursing facility services provided on or after October 1, 1990, a nursing facility --

(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

### **(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.---**

#### **(1) ADMINISTRATION.--**

(A) IN GENERAL.--A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

APPENDIX C3  
**INVESTIGATIVE PROTOCOL**

NURSING SERVICES, SUFFICIENT STAFFING

Objectives:

To determine if the facility has sufficient nursing staff available to meet the residents' needs.

To determine if the facility has licensed registered nurses and licensed nursing staff available to provide and monitor the delivery of resident care.

Task 5C: Use:

NOTE: This protocol is not required during the standard survey, unless it is triggered in the event of care concerns/problems which may be associated with sufficiency of nursing staff. It is required to be completed for an extended survey.

This protocol is to be used when:

Quality of care problems have been identified, such as: Residents not receiving the care and services to prevent pressure sore/ulcer(s), unintended weight loss and dehydration, and to prevent declines in their condition as described in their comprehensive plans of care, such as bathing, dressing, grooming, transferring, ambulating, toileting, and eating; and

Complaints have been received from residents, families or other resident representatives concerning services, such as: Care not being provided, call lights not being answered in a timely fashion, and residents not being assisted to eat.

Procedures:

Determine if the registered/licensed nursing staff are available to:

- Supervise and monitor the delivery of care by nursing assistants according to residents' care plans;
- Assess resident condition changes;
- Monitor dining activities to identify concerns or changes in residents' needs;
- Respond to nursing assistants' requests for assistance;
- Correct inappropriate or unsafe nursing assistants techniques; and
- Identify training needs for the nursing assistants.

If problems were identified with care plans/services not provided as needed by the resident, focus your discussion with supervisory staff on the situations which led to using the protocol: how do they assure that there are adequate staff to meet the needs of the residents; how do they assure that staff are knowledgeable about the needs of the residents and are capable of delivering the care as planned; how do they assure that staff are appropriately deployed to meet the needs of the residents; how do they provide orientation for new or temporary staff regarding the resident needs and the interventions to meet those needs; and how do they assure that staff are advised of changes in the care plan?

Determine if nursing assistants and other nursing staff are knowledgeable regarding the residents' care needs, such as: the provision of fluids and foods for residents who are unable to provide these services for themselves; the provision of turning, positioning and skin care for those

residents identified at risk for pressure sore/ulcers; and the provision of incontinence care as needed;

If necessary, review nursing assistant assignments in relation to the care and or services the resident requires to meet his/her needs;

In interviews with residents, families and/or other resident representatives, inquire about the staff's response to requests for assistance, and the timeliness of call lights being answered; and

Determine if the problems are facility-wide, cover all shifts or if they are limited to certain units or shifts, or days of the week. This can be based on information already gathered by the team with additional interviews of residents, families and staff, as necessary.

Task 6: Determination of Compliance:

NOTE: Meeting the State mandated staffing ratio, if any, does not preclude a deficiency of insufficient staff if the facility is not providing needed care and services to residents.

Compliance with 42 CFR 483.30(a), F353, Sufficient Staff:

- The facility is compliant with this requirement if the facility has provided a sufficient number of licensed nurses and other nursing personnel to meet the needs of the residents on a twenty-four hour basis. If not, cite F353.

APPENDIX C4  
**Example of a Well Written Deficiency**

One deficiency that was reviewed by HCFA staff was an excellent example of resident's identified needs, numbers of staff, interviews, record review, and observations. The following is the text from that deficiency.

Facility #23:

Based on observation, staff interview, resident interview, family interview and record review, the facility failed to provide nursing staff for the residents to attain and/or maintain the highest practicable physical, mental and psychosocial well being.

During an interview with the day Registered Nurse (RN) Supervisor on ... at 2:05 p.m, she stated there were 25 residents on second floor and 24 residents on third floor. The RN Supervisor was responsible for care of the residents on 2<sup>nd</sup> and 3<sup>rd</sup> floors and supervision of all floor staff. There were 9 residents on 2<sup>nd</sup> floor on ventilator life support full time and an additional resident on ventilator life support only at night. There were 17 residents on 2<sup>nd</sup> floor with diagnoses of persistent vegetative state. She stated there were 22 residents on 2<sup>nd</sup> floor received nutrition by gastrostomy tube (g-tube) feeding and 4 on 3<sup>rd</sup> floor receiving nutrition by g-tube. On ... there were 5 residents on 2<sup>nd</sup> floor and 1 resident on third floor receiving intravenous antibiotics that could only be administered by a RN.

Resident interviews:

1. Interviews were conducted with alert and oriented residents living on both the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the facility on... Residents interviewed were sample residents... (6 were identified).

Interviewable resident... was interviewed at 2:35 p.m. in his room on 3<sup>rd</sup> floor. The resident stated he needed a 2-person transfer to get out of bed and into his wheelchair. The resident stated sometimes there weren't enough staff to help him transfer. The resident state he had waited as long as 20-30 minutes to get the assistance he needed to transfer from bed to his wheelchair. The resident stated that when this happened, he would be late for meals and therapy. Therapy was very important to him, "I'm very annoyed when I don't get therapy. Therapy is paramount to me." The resident stated he lets staff know when he is annoyed.

The resident went on to say there was a "chronic staff shortage of nurses and CNAs (certified nursing assistants). [The] nurses have to help the CNAs and everyone does a job they aren't hired for." The resident stated there were usually 2 CNAs on the floor, but often times at evening and night, there is "only 1". The resident stated there was 1 nurse to give medications and he could get his medications as late as a "couple of hours." The resident stated he liked his



morning medications 1 to 1½ hours before he gets up “so I am not jumping out of my chair [wheelchair] with muscle spasms. I need my muscle relaxants’ before getting out of bed. The above information given by resident ... was confirmed by observing the 8:00 a.m. medication pass on the 3<sup>rd</sup> floor on ...

Interviewable resident ... had a tracheostomy and was on a ventilator, but could answer yes/no questions by head shakes and nods and could mouth words. Resident... was interviewed on ... at 9:25 a.m. in her room on 2<sup>nd</sup> floor. Resident ... indicated she would sometimes lay wet in bed for sometimes an hour, 2 hours and/or 3 hours once or twice a day. When asked if staff come in and check on her, she made a face and shook her head. When asked if she would like them to look in on her, she nodded her head. When asked if staff come quickly when she turned on her call light she shook her head no. The resident indicated it could take up to one hour, but never 2 hours for the call light to be answered. The resident indicated the staff will come in, turn off her call light, tell her they will be back and then not come back. Resident ... indicated she did not always get her medication on time. She indicated her medication was usually late in the evening and night, but not during the day. The information given by ... regarding the medication pass was confirmed by observing the medication pass the evening (6:00 p.m.) on second floor.

Interviewable resident ... was interviewed on ... at 1:10 p.m. in his room on 2<sup>nd</sup> floor. Resident... has quadriplegia and is ventilator dependent. He stated there was “no help.” He stated evenings were bad but nights were worse, and the people they do have they ‘work them to death.” He stated he did not get his medication on time 4-5 times a week and he would get muscle spasms if his medication was not given on time. Resident... said it was “scary at night”. He stated he didn’t “know if they are going to have enough help to answer call lights or your alarms. I timed them one night and it took them (staff) 28 minutes to answer my call light.” He stated that he used his “call light at night” when he needed suctioning. “two minutes not being able to breathe is scary”, resident ... told the surveyor. He stated Saturday and Sunday were the worst days for the facility not having enough staff...

Interviewable resident... lived on 2<sup>nd</sup> floor and was interviewed on ... at 10:30 a.m. He indicated the facility did not have enough staff to help him. He indicated sometimes they have enough on day and evening and sometimes they do not. He could not indicate [about staff] on night shift. He indicated the staff don’t change his catheter often and he had gone for months without it being changed. He shook his head when asked if it was changed every two weeks or monthly. He also indicated by shaking his head that the tube in his throat was not taken out and changed. The information regarding resident... catheter was confirmed from record review and staff interview.

Interviewable resident... lived on 3<sup>rd</sup> floor. The resident was very mobile and was going to be discharged from the facility on ... She stated the facility needed more people,

people meaning staff. She stated there was only 1 nurse per shift. She stated 1 nurse was not enough and that things could be very volatile. When asked what she meant by volatile, she stated volatile meant emergencies and people (residents) being ill.

Interviewable resident ...communicated via computer and nodding his head indicating yes or an affirmative answer, or shaking his head indicating no or a negative answer to question. When asked if staff help him change his position when he is in bed, he shook his head. He also shook his head when asked if he could change his position by himself. He stated through his computer that he lay on his back all night. When asked if he used his call light, he nodded his head and when asked how long it took staff to answer his call light in the evening, he responded by computer, "usually they have only 1 aide, so it takes quite a while." When asked if he thought the facility had enough staff, he shook his head. The resident was asked why he thought that and he replied through computer, "very often there will be only 1 nurse of aide and they have to do everybody alone." He was asked, when that happens, did he get the care he needed? He shook his head and responded, "I don't expect to. I try to make it easy because the others need help." He was asked if he know of anyone on 2<sup>nd</sup> or 3<sup>rd</sup> floor that didn't get the help they needed, he hesitated and looked away. When asked if he would rather not answer that question, he nodded and added by computer, "because all I know of is what I hear from my room. But when I hear somebody crying, I feel they aren't being cared for."

#### Family interviews:

The family of resident ...asked to speak to the surveyor and an interview was conducted on ...at 4:30 P.M. The family member she visited the resident daily. She stated that 4-5 times a week she would find the resident's incontinent pads "very saturated" with urine. She also stated the pillows used for positioning were not being consistently used. The family member stated she bathed the resident daily. The family member stated she was concerned about the positioning pillows because she did not want the resident to develop pressure sores. The family member stated sometimes in the evening the facility had 1 RN, 2 Licensed Practical Nurses (LPN) and 2 CNAs. 1 CNA orienting the 2<sup>nd</sup> CNA. The family member stated if she wasn't at the facility, the resident would not get care. The family member questioned why she had to provide care when the facility got paid to provide care.

An interview with the family of a sample resident was held on ...at 12:00 noon. The family member stated the staffing was "horrendous" on the weekends. The family member stated that members of the family visited the resident on a daily basis. The family member stated the 1<sup>st</sup> weekend the resident was in the facility, the family found the resident to be lying in urine and feces. The family member stated the resident's perineal area was "red with rash, just like a baby has". The family continued that the areas was still red on ... and was bleeding from the rash three weeks prior. The family

member stated “I figured out right off, I had to tell staff when to change [the resident]. The family member stated family had to tell staff when to get the resident up, reposition the resident and when to check the resident’s pads for incontinent episodes. From ...the family found on 4 week-ends the resident was without positioning devices for the extremities. The family member stated the family performed range of motion on the resident’s feet because staff “won’t do it.” The family member stated the family begged staff to perform range of motion on the resident’s feet, “I tell them I’ll pay them” to perform the range of motion. The family member stated “staff never reposition [the resident] in chair {wheelchair}, I do.’ The family member stated staff, “never come in and roll the resident from side to side.” Occupational Therapy did an up-down schedule for the resident in the room and they have never followed it, never, not once. The family member stated the weekend of ..., the family member found the resident to be lying in feces in bed when the family arrived for the visit at about 11:30 a.m. The family member asked how many patients the licensed nursing staff had to take care of, the licensed nursing staff staffed 28. The family member stated that during the 2<sup>nd</sup> week-end of ..., family asked a staff person to change the resident and the staff person told the family member he was too busy. The family stated the family had taken their complaints to the Nursing Home Administrator (NHA) and had been told by the NHA to tell the staff they have to do it. The family interview was confirmed by record review.

An interview was conducted with the family of a sample resident on ... at 10:30 a.m. The family member stated the facility was understaffed most of the time. The family member stated that family members have been in the facility everyday. The family member stated the resident had been outside the facility with the family and when the family brought the resident back inside, the bandages on the resident’s wounds were dripping and were wet with pus. The family could not remember the exact date, but stated she asked the licensed staff to change the bandages. The licensed staff told the family he couldn’t change the dressing because he had to pass medications. A family member stated on ... at 3:30 p.m., that “I have to ask to have it done” referring to wound care on weekends.